

**REMARKS**

In response to the Official Action mailed June 8, 2005, Applicants submit the following amendments and remarks.

In the Official Action, the Examiner mentioned that the term "break" should be changed to "brake." In response to this, Applicant has amended the claims to thereby correctly state that Applicant is referring to a brake. No new matter has been added by this change.

As an initial matter, Applicant acknowledges that the Examiner has deemed that claims 7, 8/7, and 9-13, although objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, applicant wishes to hold in abeyance rewriting of such claims, pending the Examiner's further action respecting the claims remaining in the application.

Claims 1-6, 8/2, 8/3, 8/4, 8/5, 8/6 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,273,523 to *Wakabayashi* et al. The Examiner contends that *Wakabayashi* discloses all of the recitations included within the claims for which it is cited against. *Wakabayashi* discloses a hydraulic service braking arrangement for a motorcycle. The braking arrangement includes a front hand-operated brake 5 and a rear foot-operated brake 7. The pressure on the hand-operated brake 5 delivers hydraulic pressure through piping 16 to the front wheel brake 11, while the pressure of the foot-operated brake 7 delivers hydraulic pressure through piping 18 to the rear wheel brake 12.

The delivery of hydraulic pressure to each of the service brakes 11 and 12 in *Wakabayashi* can also be made by electronically controlled actuators 21 and 23. The actuators are hydraulic actuators that are controlled by an electronic

control unit (ECU) 30. Input to the ECU 30 is received from pressure sensors 31 and 32, which detect hydraulic actuation pressure, respectively, in the lever master cylinder 15 and the pedal master cylinder 17. Upon detection of hydraulic actuation pressure by either or both of the pressure sensors 31 and 32, detection signals are sent to the ECU 30. Upon receipt of the signal or signals from the pressure sensors 31 and 32, the ECU 30 initiates the electronic actuators 21 and 23 to deliver hydraulic pressure to either or both of the front wheel brake 11 and/or the rear wheel brake 12. This is in addition to the hydraulic pressure, which is delivered by actuation of either the hand or foot brakes 5, 7.

Therefore, the actuation of the electronically controlled actuators 21 and 23 is dependent upon the actuation of the hand and foot brakes 5, 7. Since both the electrically controlled actuators 21, 23 and the hydraulic service braking arrangement, via piping 16 and piping 18, are dependent upon the hand and foot brake 5,7, the hydraulic service brake arrangement and the electronically controlled actuators are not independent of one another. This is in contrast to that which is encompassed by claim 1 of the present application. Claim 1 states that the hydraulic service brake actuator and the non-hydraulic electric parking brake actuator are independently operable. There is no disclosure in *Wakabayashi* that the electric actuators can operate independently of the hand and foot brakes, i.e., the hydraulic braking system. Thus, *Wakabayashi* teaches electronically controlled actuators which are dependent upon hydraulic brake actuators, i.e., the hand and foot actuators 5, 7.

One reason that *Wakabayashi* discloses an electronic brake system and a hydraulic brake system which are dependent upon one another is because the device of *Wakabayashi* is designed to ensure that the service braking load is distributed

to the front and rear wheels of a motorcycle in an appropriate and timely manner to ensure safe braking. This differs from the present application, which discloses a device for providing separate mechanisms for applying a brake force for service brake operation and for parking brake operation, as included within claim 1 of the present application.

*Wakabayashi* does not teach anything in relation to a parking brake actuation, because *Wakabayashi* relates to motorcycle brakes, which are not required to include a parking brake function. Thus, while the Examiner states that the term "parking" is readable in relation to the electric actuators 21, 23 of *Wakabayashi*, those actuators are not designed for being parking brake actuators. In addition, one skilled in the art would not assume that the actuators are designed for parking brake actuators because, as previously mentioned, *Wakabayashi* discloses a braking system for a motorcycle, which does not require a parking brake.

Further *Wakabayashi* specifically discloses that the medium by which the three pistons of the three ports of each caliber are shifted or displaced is by hydraulic pressure in the hydraulic systems 22, 24 (see col. 4, lns. 35-59). *Wakabayashi* does not disclose any other medium or method for which the pistons are displaced.

As stated in the first paragraph of the present application, the present invention is specifically adapted to solve some of the problems and disadvantages of prior art references which disclose hydraulic service brake actuators working in combination within an electric parking brake actuator.

One of the major advantages of such an embodiment is that a purely electric actuator can be made to lock in an actuated position, without the need to continue to energize the actuator, which would otherwise slowly drain a battery supply

just generally employed in combination with an electronic actuator. This is highly advantageous especially considering that parking brakes are often employed for extending periods of time without release. In contrast, if the parking brakes were simply hydraulically driven, as is the case in *Wakabayashi*, hydraulic fluid leakage can reduce the parking brake load over time. This is a further reason why a person skilled in the art would not consider *Wakabayashi* as relevant prior art document given that *Wakabayashi* only describes an hydraulic service brake as compared to a combination of a hydraulic service brake actuator and an electric parking brake actuator.

In order to clarify the distinction between the present application and *Wakabayashi*, Applicant has amended the claim to specifically include the recitation that the electric parking brake actuator is not hydraulic. This amendment is strictly to clarify the claimed invention and should not be considered a narrowing amendment. No new matter has been added by this amendment.

Therefore, in sum, claim 1 of the present application is patentably distinguished over the cited *Wakabayashi* reference in that *Wakabayashi* does not disclose or suggest a hydraulic brake actuator and a non-hydraulic electric parking brake actuator, each of which is operable independently of the other for service brake operation and parking brake operation. Indeed, *Wakabayashi* does not teach use of a parking brake and a person skilled in the art would not look to *Wakabayashi* for any teaching in relation to parking brakes. Moreover, each of the actuators in *Wakabayashi* is operable to drive hydraulic fluid and there is no teaching or suggestion of any type of brake application other than hydraulic brake application.

Applicant therefore respectfully traverses the Examiner's rejection and submits that claims 1-6, 8/2, 8/3, 8/4,

8/5, 8/5, and 8/6 are in condition for allowance and should be deemed patentable.

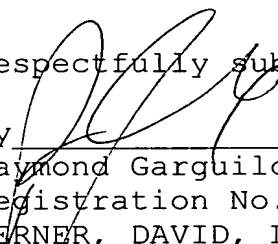
As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: September 27, 2005

Respectfully submitted,

By   
Raymond Garguilo, Jr.  
Registration No.: 50,930  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant

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